

# Environmental Statement: Volume I

## Chapter 5: Planning Policy

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## **5.0 PLANNING POLICY**

### **5.1 Introduction**

5.1.1 This chapter provides an overview of the legislative context for the Proposed Development and the planning policy against which it will be considered.

### **5.2 Legislative Context**

5.2.1 The Planning Act 2008 (the 'PA 2008') introduced a new system for consulting on, examining and determining 'nationally significant infrastructure projects' ('NSIPs') as defined by section 14 of the PA 2008.

5.2.2 The main legislative and procedural requirements relating to NSIPs are set out within the following:

- the PA 2008;
- The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the 'APFP Regulations'); and
- The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the 'EIA Regulations').

5.2.3 The Proposed Development falls within the definition of a NSIP under sections 14(1)(a) and 15(1) and (2) of the PA 2008, being an onshore electricity generating station in England with a capacity exceeding 50 megawatts ('MW').

### **5.3 Planning Policy**

#### **National Policy Statements**

5.3.1 The PA 2008 grants the Secretary of State (SoS) power to designate statements as National Policy Statements (NPS') setting out policy against which NSIPs are considered. Notably, where a NPS has effect in relation to a type of NSIP development (such as energy generation), section 104 of the PA 2008 requires the SoS to determine applications for NSIPs in accordance with the relevant NPSs, unless:

- The adverse impacts of the development outweigh its benefits; or
- This would:
  - Lead to the UK being in breach of its international obligations;
  - Be in breach of any statutory duty that applies to the SoS;
  - Be unlawful; or
  - Be contrary to any regulations that may be made prescribing other relevant conditions.

5.3.2 NPSs which have effect are therefore the primary (but not only) matter against which applications for NSIPs are judged. In taking decisions on applications for NSIPs, section 104 of the PA 2008 states that the SoS must also (in addition to the NPSs) have regard to appropriate marine policy documents, local impact reports (these are submitted by local authorities during the examination of Development Consent Order (DCO) applications)

and any other matters that the SoS considers to be both 'important and relevant' to their decision. Such matters can include local development plan documents.

5.3.3 A number of NPSs relating to nationally significant energy infrastructure were designated in July 2011. Those NPSs which are relevant to the Proposed Development are as follows:

- Overarching National Policy Statement for Energy (EN-1) (Ref 5-1);
- National Policy Statement for Fossil Fuel Electricity Generating Infrastructure (EN-2) (Ref 5-2);
- National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4) (Ref 5-3); and
- National Policy Statement for Electricity Networks Infrastructure (EN-5) (Ref 5-4).

5.3.4 There is no relevant Marine Policy Statement as the Proposed Development is not within and does not affect a marine area.

5.3.5 Key policy in each of these is described below. Each technical topic chapter (Chapters 6 to 16 of this ES) considers policy relevant to that topic, including that in the NPSs.

#### ***The Overarching NPS for Energy (EN-1)***

5.3.6 NPS EN-1, in conjunction with related technology specific NPSs, provides the primary basis for decisions by the SoS in relation to nationally significant energy infrastructure.

5.3.7 Part 2 of EN-1 sets out 'Government policy on energy and energy infrastructure development'. It confirms the following:

- The Government's commitment to meet its legally binding target to cut greenhouse gas emissions by at least 80% by 2050 compared to 1990 levels;
- The need to effect a transition to a low carbon economy so as to reduce greenhouse gas emissions; and
- The importance of maintaining secure and reliable energy supplies as older fossil fuel generating plant closes as a result of the European Union Emissions Trading System ('EU ETS') and the UK moves toward a low carbon economy.

5.3.8 Part 3 of EN-1 defines and sets out the need that exists for nationally significant energy infrastructure. Paragraph 3.1.1 states that the UK needs all the types of energy infrastructure covered by the NPS in order to achieve energy security at the same time as dramatically reducing greenhouse gas emissions. Paragraph 3.1.2 goes on to state that it is for industry to propose new energy infrastructure and that the Government does not consider it appropriate for planning policy to set targets for or limits on different technologies.

5.3.9 Notably, paragraph 3.1.3 of EN-1 stresses that the SoS should assess applications for development consent for the types of infrastructure covered by the energy NPSs; "...on the basis that the Government has demonstrated that there is a need for those types of infrastructure and that the scale and urgency of that need..." is as described for each of them. Paragraph 3.1.4 continues that the SoS should give substantial weight to the contribution that all projects would make toward satisfying this need when considering applications under the PA 2008. As such, EN-1 is clear that the need that exists for new energy infrastructure is not open to debate or interpretation.

- 5.3.10 The urgency of the need for new electricity generating capacity is underlined by projections within EN-1 that indicate up to 22 gigawatts ('GW') of existing capacity will close over the period to 2025 in part due to the Industrial Emissions Direction but also as a result of some power stations reaching the end of their operational lives (paragraph 3.3.7). This includes a significant number of fossil fuel power stations, due largely to the Government's requirement for all coal-fired power station to close by 2025. In response, EN-1 identifies a minimum need for 59 GW of new generating capacity over the period to 2025 (paragraph 3.3.23).
- 5.3.11 The UK is becoming increasingly reliant on renewable energy. As renewable generating stations (particularly wind and solar farms) are intermittent in nature, it is necessary to ensure that there is infrastructure in place that is able to respond to fluctuations in supply. OCGT generating stations are well suited to this, having the capability to start up rapidly and thus being able to respond to peaks in electricity demand and fluctuations in supply. The proposed OCGT Power Station at the Site will therefore make a positive contribution toward the security of national energy supply and provide much needed back-up to the UK's existing generation fleet.
- 5.3.12 Paragraphs 3.3.2 and 3.3.4 of EN-1 are of particular relevance to the need for OCGT generating stations, stating that:
- “3.3.2 The Government needs to ensure sufficient generating capacity is available to meet maximum peak demand, with a safety margin of spare capacity to accommodate unexpectedly high demand and to mitigate risks such as unexpected plant closures and extreme weather events...”*
- 3.3.4 ...fossil fuel generation can be brought on line quickly when there is high demand and shut down when demand is low, thus complementing generation from nuclear and intermittent generation from renewables.”*
- 5.3.13 This underlines the role of gas-fired generation, in particular OCGT generating stations, in ensuring the security of electricity supply.
- 5.3.14 The theme is continued in paragraph 3.3.11 of EN-1:
- “...some renewable sources (such as wind, solar and tidal) are intermittent and cannot be adjusted to meet demand. As a result, the more renewable generating capacity we have the more generation capacity we will require overall, to provide back-up at times when the availability of intermittent renewable sources is low. If fossil fuel plant remains the most cost-effective means of providing such back-up, particularly at short notice, it is possible that even when the UK's electricity supply is almost entirely decarbonised we may still need fossil fuel stations for short periods when renewable output is too low to meet demand, for example when there is little wind.”*
- 5.3.14.1 Paragraph 3.6.2 of EN-1 notes that gas will continue to play an important role in the electricity sector, providing vital flexibility to support an increasing amount of low-carbon generation and to maintain security of supply, while paragraph 3.6.3 highlights that gas-fired generation, although not low carbon, produces about half as much carbon dioxide as coal per unit of electricity generated. Gas therefore clearly provides a cleaner means by which to provide the required flexibility and resilience within the UK's generation fleet, and to aid the transition to a low carbon economy.

- 5.3.15 Part 4 of EN-1 sets out a number of ‘assessment principles’ that must be taken into account by applicants, the Planning Inspectorate and the SoS in (respectively) preparing, examining and determining applications for nationally significant energy infrastructure. General points include (paragraph 4.1.2), given the level and urgency of need for the infrastructure covered by the energy NPSs, the requirement for the SoS to start with a presumption in favour of granting consent for applications for energy NSIPs. This presumption applies unless any more specific and relevant policies set out in the relevant NPS clearly indicate that consent should be refused or any of the considerations referred to in Section 104 of the PA 2008 (noted above) apply.
- 5.3.16 Paragraph 4.1.3 goes on to state that in considering any application, and in particular, when weighing its adverse impacts against its benefits, the SoS should take into account:
- Its potential benefits, including its contribution to meeting the need for energy infrastructure, job creation and any long-term wider benefits; and
  - Its potential adverse impacts, including any long-term and cumulative adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts.
- 5.3.17 Paragraph 4.1.4 continues by stating that within this context the SoS should take into account environmental, social and economic benefits and adverse impacts, at national, regional and local levels.
- 5.3.18 Other assessment principles include the matters to be covered within the ES produced for the application; the Conservation of Habitats and Species Regulations 2017; the consideration of alternatives; criteria for ‘good design’; consideration of the feasibility of combined heat and power; consideration of the requirements of the carbon capture readiness regulation; grid connection; climate change adaptation; pollution control and environmental regulatory regimes; safety; hazardous substances; health; common law and statutory nuisance and security, amongst others.
- 5.3.19 Part 5 of EN-1 lists a number of ‘generic impacts’ that relate to most types of energy infrastructure, which both applicants and the SoS should take into account when preparing and considering applications. These include land use; socio-economics; air quality and emissions; noise and vibration; dust, odour, artificial light, steam and smoke; traffic and transport; civil and military aviation; biodiversity and geological conservation; historic environment; landscape and visual; water quality and resources; flood risk and waste, amongst others. Paragraph 5.1.2 stresses that the list of impacts is not exhaustive and that applicants should identify the impacts of their projects in the ES in terms of both those covered by the NPSs and others that may be relevant. In relation to each of the generic impacts listed within Part 5 of EN-1, guidance is provided on how the applicant should assess these within their application and also the considerations that the SoS should take into account in decision-making.
- 5.3.20 In addition to a number of the assessment principles and generic impacts covered by EN-1, NPS EN-2, EN-4 and EN-5 set out the factors (e.g. those influencing site selection) and ‘assessment and technology specific’ considerations to be taken into account in the preparation and assessment of applications for fossil fuel generating stations, gas pipelines and electricity network infrastructure, including relevant environmental matters. These are considered briefly below.

***The NPS for Fossil Fuel Electricity Generating Infrastructure (EN-2)***

- 5.3.21 Taken together with NPS EN-1, EN-2 (Ref 5-5) provides the primary basis for decisions on applications for fossil fuels electricity generating stations, including gas-fired power stations such as the Proposed Development. The document provides additional policy guidance against which to assess such proposals.
- 5.3.22 Section 2.2 outlines the factors influencing site selection for fossil fuel power stations. These include land use and size of site; transport infrastructure for the delivery and removal or construction materials, fuel, waste and equipment; and water resources, for example, some power station have very high water demands for cooling; and grid connection. However, in outlining such factors, paragraph 2.2.1 makes clear that; “...it is for energy companies to decide what application to bring forward and the Government does not seek to direct applicants to particular sites for fossil fuel generating stations.”
- 5.3.23 Technology specific considerations to be taken into account in the assessment of fossil fuel power stations, in addition to the assessment principles and generic impact set out in EN-1, include air emissions; landscape and visual; noise and vibration; release of dust (in respect of coal-fired stations); residue management (again in respect of coal stations); and water quality and resources.

***The NPS for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4)***

- 5.3.24 Section 2.19 of EN-4 (Ref 5-6) provides guidance on the assessment of applications for new gas and oil pipelines. The Proposed Development includes a new gas pipeline connection (the ‘Gas Connection’) between the OCGT Power Station and an existing connection point on the Existing VPI CHP Plant Site. The pipeline does not represent a NSIP in its own right, but it is included within the development for which development consent is sought as ‘associated development’.
- 5.3.25 Key technology specific considerations for the Gas Connection include proximity to sensitive land uses (e.g. residential development and schools) when planning routes; pipeline safety; noise and vibration; biodiversity; landscape and visual; water quality and resources; and soils and geology.

***The NPS for Electricity Networks Infrastructure (EN-5)***

- 5.3.26 EN-5 (Ref 5-7) outlines principles on which the SoS will apply to applications for new electricity transmission lines as well as associated infrastructure, such as substations. It should be noted that the Proposed Development will involve relatively small scale electricity grid connection works to the existing substation on the Existing VPI CHP Plant Site.
- 5.3.27 Technology specific considerations to be taken into account for such works include biodiversity and geological conservation, landscape and visual impacts, noise and vibration effects and the effects of electric and magnetic fields.

**Other Matters that may be ‘Important and Relevant’**

- 5.3.28 As noted above, in making decisions on applications for NSIPs, section 104 of the PA 2008 states that the SoS must also, in addition to the NPSs, have regard to any other matters that they consider to be both ‘important and relevant’ to their decision. Paragraph 4.1.5 of EN-1 provides some clarification as to what may constitute as both important and relevant, including other national planning policy and local planning policy.

5.3.29 In the event of a conflict between documents and a NPS however, the latter prevails for the purposes of decision-making.

***National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG)***

5.3.30 The National Planning Policy Framework ('NPPF') was adopted in March 2012 and last updated in February 2019 (Ref 5-5). The policies contained within the NPPF are expanded upon and supported by the 'Planning Practice Guidance', which was originally published in March 2014 and has been updated incrementally since.

5.3.31 The NPPF sets out the Government's planning policies for England and how these are to be applied. It is a material consideration in planning decisions. Paragraph 5 of the NPPF makes it clear that the document does not contain specific policies for NSIPs and that applications in relation to NSIPs are to be determined in accordance with the decision making framework set out in the PA 2008 and relevant NPSs, as well as any other matters that are considered both important and relevant. However, paragraph 5 clarifies that matters considered both important and relevant to NSIPs may include the NPPF.

5.3.32 Paragraph 7 of the NPPF is clear that the purpose of the planning system is to contribute to the achievement of sustainable development, which it summarises as meeting the needs of the present without compromising the ability of future generations to meet their own needs. Paragraph 8 goes on to identify three dimensions of sustainable development: economic, social and environmental. It states that their dimensions give rise to the need for the planning system to perform a number of key roles as follows:

- "a) *an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*
- b) *a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*
- c) *an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy."*

5.3.33 Paragraph 9 emphasises that these roles should not be undertaken in isolation, because they are interdependent. For example, economic growth can secure higher social and environmental standards while well designed buildings and places can improve the lives of people and communities.

5.3.34 Central to the NPPF is 'a presumption in favour of sustainable development'. This is highlighted at Paragraph 11. For decision-making, this means approving applications that accord with the development plan without delay.



- 5.3.35 Potentially relevant policies to the scope of the EIA include promoting sustainable transport; requiring good design; promoting healthy communities; conserving and enhancing the natural and historic environment; and meeting the challenge of climate change and mitigating its effects.

#### **Local Planning Policy**

- 5.3.36 The Site is located within the administrative boundary of North Lincolnshire Council (NLC). Key NLC documents and policies are set out below.
- 5.3.37 The Existing Gas Pipeline is primarily within the administrative boundary of NLC, with a small section in the administrative area of North East Lincolnshire Council (NELC). The Application does not include or seek any consent for works to the Existing Gas Pipeline. However, on the basis that the Application does seek powers of compulsory acquisition over the Existing Gas Pipeline, key NELC document and policies are set out below.

#### ***North Lincolnshire Council***

- 5.3.38 Within NLC's area, the following development plan documents have been considered during the EIA process:
- North Lincolnshire Core Strategy (2011) (Ref 5-6);
  - North Lincolnshire Housing and Employment Land Allocations Development Plan Document (Ref 5-8); and
  - North Lincolnshire Local Plan (Saved Policies) (Ref 5-9).
- 5.3.39 The following NLC policies are considered relevant to the Proposed Development:

#### **Core Strategy**

- CS1 – Spatial Strategy for North Lincolnshire;
- CS2 – Delivering More Sustainable Development;
- CS12 – South Humber Bank Strategic Employment Site;
- CS16 – North Lincolnshire's Landscape, Greenscape and Waterscape;
- CS17 – Biodiversity;
- CS18 – Sustainable Resource Use and Climate Change;
- CS19 – Flood Risk;
- CS20 – Sustainable Waste Management;
- CS21 – Minerals;
- CS25 – Promoting Sustainable Transport;
- CS26 – Strategic Transport Infrastructure Proposals.

#### **Local Plan**

- IN1 – Industrial Development Location and Uses;
- IN3 – Industrial and Commercial Development;
- LC1 – Special Protection Areas, Special Areas of Conservation and RAMSAR Sites;

- LC5 – Species Protection;
- LC7 – Landscape Protection;
- LC12 – Protection of Trees, Woodland and Hedgerows;
- LC20 – South Humber Bank – Landscape Initiative;
- HE9 – Archaeological Excavation;
- M23 – Oil and Gas Production
- DS1 – General Requirements;
- DS7 – Contaminated Land;
- DW11 – Polluting Activities;
- DS13 – Groundwater Protection and Land Drainage;
- DS15 – Water Resources;
- DS16 – Flood Risk;
- T1 – Location of Development;
- T2 – Access to Development; and
- T18 – Traffic Management.

#### **Housing and Employment Land Allocations Development Plan**

5.3.40 The Site is identified as falling within Employment Land Allocation SHBE-1 South Humber Bank.

5.3.41 South Humber Bank needs:

*“900 hectares (gross area) of B1 (Offices/Light Industrial), B2 (General Industry) and B8 (Storage and Distribution) port related activities to take special advantage of its location within an existing port environment, flat topography and being adjacent to a deep water channel of the Humber Estuary.”*

*“The expected port related activities on the site will in the main be heavy industrial users meaning pollution and waste control measures will be crucial to the success of the site in sustainability terms.”*

5.3.42 There are no relevant policies contained within the Humber Area Local Aggregate Assessment document (2017).

#### **North East Lincolnshire Council**

5.3.43 Within the NELC’s area, the recently adopted North East Lincolnshire Local Plan 2013 to 2032 (2018) has been considered during the EIA process. The following policies from the Local Plan are considered relevant to the Proposed Development:

- SO1 – Population;
- SO2 – Climate Change;
- SO3 – Economy;

- SO5 – Social and health inequality;
- SO6 – Built, historic and natural environment;
- SO7 – Transport;
- SO10 – Minerals and Waste;
- Policy 6 – Infrastructure;
- Policy 32 – Energy and low carbon living;
- Policy 33 – Flood risk;
- Policy 34 – Water Management;
- Policy 37 – Safeguarding and Transport Infrastructure;
- Policy 39 – Conserving and enhancing the historic environment;
- Policy 41 – Biodiversity and Geodiversity; and
- Policy 42 – Landscape.

## 5.4 Summary

- 5.4.1 The NPSs form the primary basis for decisions by the SoS on applications for NSIPs. In addition to setting out the strong need for new energy infrastructure, they provide detailed guidance on the matters to take into account when both preparing and assessing applications for NSIPs. They also confirm that the SoS must have regard to any other matters that he/she considers are both 'important and relevant', which can include the NPPF and local development plan policy. Both the NPS and NPPF are clear, however, that in the event of any conflict between a NPS and another document, the NPS prevails.
- 5.4.2 The DCO application includes a detailed assessment of the Proposed Development, taking account of the findings of the EIA as reported within this ES, against the relevant NPSs and other relevant policy documents such as the NPPF and local development plan.

## 5.5 References

- Ref 5-1 Department of Energy and Climate Change (2011), *Overarching National Policy Statement for Energy (EN-1)*. (available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/47854/1938-overarching-nps-for-energy-en1.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/47854/1938-overarching-nps-for-energy-en1.pdf) [Accessed August 2018]).
- Ref 5-2 Department of Energy and Climate Change (2011), *National Policy Statement for Fossil Fuel Electricity Generating Infrastructure (EN-2)* (available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/47855/1939-nps-for-fossil-fuel-en2.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/47855/1939-nps-for-fossil-fuel-en2.pdf) [Accessed August 2018]).
- Ref 5-3 Department of Energy and Climate Change (2011), *National Policy Statement for Fossil Fuel Electricity Generating Infrastructure (EN-4)* (available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/47857/1941-nps-gas-supply-oil-en4.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/47857/1941-nps-gas-supply-oil-en4.pdf) [Accessed August 2018]).
- Ref 5-4 Department of Energy and Climate Change (2011), *National Policy Statement for Fossil Fuel Electricity Generating Infrastructure (EN-5)* (available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/47858/1942-national-policy-statement-electricity-networks.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/47858/1942-national-policy-statement-electricity-networks.pdf) [Accessed August 2018]).

- Ref 5-5 Ministry of Housing, Communities and Local Government (2018) *National Planning Policy Framework*
- Ref 5-6 North Lincolnshire Council (2011) *Core Strategy Adopted*
- Ref 5-7 East Riding of Yorkshire Council, Hull City Council, North East Lincolnshire Council & North Lincolnshire Council (2013) *Humber Area Local Aggregate Assessment (Draft)*
- Ref 5-8 North Lincolnshire Council (2016) *Housing and Employment Land Allocations Development Plan Document Adopted*
- Ref 5-9 North Lincolnshire Council (2003) *North Lincolnshire Local Plan* (Available at <http://www.northlincs.gov.uk/planning-and-environment/planning-policy/local-plan/north-lincolnshire-local-plan/> [Accessed August 2018])